

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 109

Docket No. MC2015-28

Competitive Product Prices
Priority Mail Contract 109 (MC2015-28)
Negotiated Service Agreement

Docket No. CP2015-37

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL CONTRACT 109 TO COMPETITIVE PRODUCT LIST

(February 9, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2339.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail Contract 109 to the competitive product list Request.² The Postal Service's Request includes a Statement of Supporting Justification, certification of compliance with 39 U.S.C. § 3633(a), and copy of Governors' Decision No. 11-6. The Postal Service also filed (under seal) a contract related to the proposed new product, and supporting financial data.

According to the Postal Service, Priority Mail Contract 101 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3).

¹ Notice and Order Concerning the Addition of Priority Mail Contract 109 to the Competitive Product List, February 2, 2015.

² Request of the United States Postal Service to Add Priority Mail Contract 109 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. Issued January 30, 2015 (Request).

Request at 1. In addition, the Postal Service maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.³

COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, certificate of compliance, and non-public financial data accompanying the request. The Public Representative concludes that Priority Mail Contract 101 should be categorized as a competitive product and added to the competitive product list. In addition, based on the financial workpapers filed by the Postal Service, it appears that the contract, in its first year, is expected to generate sufficient revenues to cover costs and thereby satisfy the requirements of 39 U.S.C. § 3633(a).

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Commission is required to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products." 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service asserts that the contract is competitive and constrained by the existing market. *Request, Attachment D.* These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 76 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's rates for competitive products must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products

³ Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's Request, the negotiated prices in the instant contract should generate sufficient revenues to cover costs during the first contract year.

The contract is expected to remain in effect for a period of three years from the effective date, unless several other aspects to amend the contract are satisfied. The Postal Service provides no data to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633 (a) during the second and third years of the contract. This concern is largely mitigated by the fact that the terms of the contract provide a formula for an annual adjustment in the negotiated rates that should permit revenues to cover costs during years 2 and 3.⁴ The Commission also has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

The Public Representative asks the Commission to examine one aspect of the contract's analysis. The accuracy of the analysis is dependent on the accuracy of the cost inflation factor forecasted by Global Insight. The Commission should note that forecasting, albeit from a reputable institution, is not an exact science. As such, the Commission should make an annual effort to record the accuracy of such factors and its corresponding effect on the cost model.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁴ See Appendix B of Request of the United States Postal Service to Add Priority Mail Contract 101 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. September 20, 2013. Page 4.